

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

UNITED STATES OF AMERICA

v.

HERB KIMBLE

No. 3:19-cr-00277-JFA

**DEFENDANT KIMBLE'S
SENTENCING MEMORANDUM**

Defendant Herb Kimble (“Kimble”), by and through undersigned counsel, submits the following memorandum in conjunction with his sentencing scheduled for September 19, 2024, in the above-referenced matter. Defendant joins in the government’s request that the Court accept the parties’ plea agreement and incorporates herein the government’s sentencing memorandum submitted to the Court on August 6, 2024.

Additionally, Mr. Kimble submits that acceptance of the plea agreement will not result in an unwarranted sentencing disparity between Mr. Kimble and the other defendants because the guidelines calculation set forth for Mr. Kimble in the June 3, 2024, Pre-Sentencing Report is based upon the readily provable loss to Medicare at the time Defendant began cooperation. *See* 18 U.S.C. § 3553(a). By contrast, the guidelines calculations utilized for the sentencing of all other defendants in related prosecutions before this Court were based upon the amount of kickback, rather than the amount of Medicare payments, which resulted in a significantly lower offense level under the sentencing guidelines.

Furthermore, the agreed upon sentence of probation to be terminated upon payment of \$40 million in restitution at sentencing should be considered in conjunction with the fact that Mr. Kimble has essentially been on probation, albeit pre-trial supervision, for more than 5 years. Mr. Kimble was arrested and placed on pre-trial supervision on April 4, 2019. He has complied with

all conditions of his bond and has periodically reported in person with the pre-trial services officer as directed. Therefore, if the Court were to impose the agreed upon sentence, Mr. Kimble will have for all intents and purposes served sixty-five (65) months of probation and paid \$40 Million in restitution.

Accordingly, Defendant requests the Court accept the plea agreement.

Respectfully submitted,

By: s/ James M. Griffin
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August 6, 2024
Columbia, South Carolina